

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CAROL VISCOMI, PATRICIA HATCH,	:	CIVIL ACTION No. 13-4720
& SUSAN KENNEDY, individually and on	:	
behalf of all others similarly situated,	:	
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
CLUBHOUSE DINER, CLUBHOUSE	:	
BENSALEM HOLDING, INC.,	:	
CLUBHOUSE BENSALEM, LLC	:	
ESAM SALAH and MEYLINDA	:	
ARDHYANI	:	
	:	
Defendants	:	

**DEFENDANTS, CLUBHOUSE BENSALEM HOLDING, INC.'S
and ESAM SALAH'S, MOTION FOR STAY OF PROCEEDINGS**

1. This is a claim brought by plaintiffs against the defendants under the Fair Labor Standards Act, 29 U.S.C. §29 *et seq.* and the Pennsylvania Minimum Wage Act, 43 P.S. §333.101 *et seq.* and the Pennsylvania Wage Payment and Collection Laws, 43 P.S. §260.1 *et seq.*

2. Plaintiffs' Complaint alleges, *inter alia*, that defendants were engaged in an illegal "tip pool scheme" wherein plaintiffs claim that defendants diverted tips belonging to the waitstaff, presumably to themselves, failed to pay plaintiffs overtime and failed to compensate them appropriately for services performed.

3. Defendants deny these allegations.

4. In order for defendants to defend against the claims set forth by the plaintiffs, defendants will, by necessity, require access to, and use of, their financial records.

5. On or about November 18, 2012, agents from the Internal Revenue Service Criminal Investigation Division executed a search warrant upon defendant, Clubhouse Bensalem Holding, Inc. t/a Clubhouse Diner (hereinafter referred to as "Clubhouse Diner"), and at that time, confiscated all financial books and records, and other documents of defendant Clubhouse Diner, including all computers and hard drives, ledgers, payroll records, sales records, expense records and any and all other financial documents relating to any financial transactions regarding Clubhouse Diner, the employer of the plaintiffs.

6. As a result of the confiscation of all of the financial books and records of Clubhouse Diner by agents of the Internal Revenue Service, defendants do not have access to these documents.

7. At the present time, it is believed and, therefore, averred that these documents remain in the possession of the Internal Revenue Service Criminal Investigation Division and an investigation is ongoing. None of the documents confiscated have been returned to the defendants as of this date.

8. Until these financial documents are returned to the defendants, defendants will be unable to properly prepare and present a defense to plaintiffs' claims.

9. Moreover, it is believed and, therefore, averred that an active investigation may be underfoot regarding defendants Clubhouse Bensalem Holding, Inc. and Esam Salah by the Internal Revenue Service.

10. Because this matter is believed to be subject to an active investigation by the Internal Revenue Service, defendants do not wish to prejudice any of their rights, nor waive any privileges which they may assert, by engaging in a defense of this case while this investigation by the Internal Revenue Service is proceeding.

11. Accordingly, for the foregoing reasons, it is respectfully requested that this Honorable Court stay the proceedings in this case, pending the outcome of the investigation of the Internal Revenue Service of the defendants, Clubhouse Bensalem Holding, Inc. and Esam Salah.

WHEREFORE, defendants respectfully request that the Court enter an appropriate Order in this matter.

By: /s/ Steven Laynas
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